

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SARAH SANDOVAL,

Plaintiff,

v.

No. _____

**JANICE TROTTER, and
MGA INSURANCE COMPANY, INC.,**

Defendants

**NOTICE OF REMOVAL TO THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

COME NOW Defendant MGA Insurance Company, Inc. (“MGA”), by and through its attorneys of record, BUTT THORNTON & BAEHR PC (James H. Johansen and Amy E. Headrick), and pursuant to 28 U.S.C. §1441(b) hereby files its Notice of Removal respectfully petitioning the Court for the affirmation of removal of this action from the Second Judicial District Court of Bernalillo County, State of New Mexico, to the United States District Court for the District of New Mexico on the following grounds:

1. Plaintiff filed this civil action against MGA in the Second Judicial District Court, County of Bernalillo, State of New Mexico, Case No. D-202-CV-2016-06375. Pursuant to D.N.M. LR-CIV 81.1, a copy of the Complaint, along with copies of all records and proceedings are attached hereto as **Exhibit A**.

2. According to the Complaint, filed October 12, 2016, Plaintiff is a citizen and resident of the County of Bernalillo, State of New Mexico. [Complaint at ¶1].

3. MGA is a personal lines property and casualty insurance company and is the entity that issued the insurance policy relevant in this matter.

4. MGA is a foreign corporation, incorporated in the state of Texas with its principal place of business in the state of Texas, thus MGA is a citizen of the state of Texas for the purposes of diversity citizenship under 28 U.S.C. § 1332.

5. Janice Trotter, a named but unserved Defendant, is a resident of the state of Texas.

6. MGA was served with the Complaint in this matter, through the New Mexico Superintendent of Insurance, effective January 17, 2017.

7. Defendant Janice Trotter has not been served with the Complaint, although Defendant Trotter has no objection to the removal of this action.

8. Complete diversity of citizenship exists between Plaintiff and Defendants.

9. The Complaint alleges four counts against Defendants, including (1) Defendant Trotter's Intentional Bad Actions; (2) Bad Faith Breach of Insurance Contract; (3) Violations of New Mexico Insurance Code; and (4) Violations of New Mexico Unfair Trade Practices Act. [Complaint at ¶¶13-34].

10. Plaintiff's claims purportedly arise out of the uninsured/underinsured motorist ("UM/UIM") coverage provisions in the automobile insurance agreement issued by MGA to Plaintiff. Plaintiff made a pre-suit demand in this case to settle the UM/UIM claims. On August 8, 2016, Plaintiff sent a demand totaling \$154,492.05 to resolve the claims, which is attached hereto as **Exhibit B**.

11. Although MGA does not admit Plaintiff has been damaged in any amount as the result of the actions of Defendants, the amount in controversy of Plaintiff's claim as indicated by the above-mentioned demands exceeds \$75,000.00. Therefore, the amount in controversy requirement of this Court is satisfied.

12. Plaintiff's Complaint is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. §1332 and which is removable by Defendant under the provisions of 28 U.S.C. §1441 in that:

a. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs; and

b. The matter in controversy is between citizens of different states.

13. This Notice of Removal was filed with this Court within thirty (30) days after Plaintiff's Complaint was served.

14. MGA, immediately upon the filing of this original Notice of Removal, gave written notice of the filing as required by 28 U.S.C. §1446 (D) and filed a copy thereof with the Clerk of the Second Judicial District Court, County of Bernalillo, State of New Mexico, the Court from which this action is removed.

15. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

WHEREFORE, Defendant MGA Insurance Company, Inc. requests that the above-entitled action remain in this United States District Court for the District of New Mexico.

Respectfully Submitted,

BUTT THORNTON & BAEHR PC

/s/ Amy E. Headrick

James H. Johansen

Amy E. Headrick

Attorney for Defendant

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I HEREBY CERTIFY that on the 10th day of February, 2016, I filed the foregoing electronically through the CM/ECF system, which caused the following counsel to be served by electronic means, as more fully reflected on the Notice of Electronic filing:

Thell Thomas, Esq.
LAW OFFICES OF THELL THOMAS, LLC
tthomasjd@gmail.com

/s/ Amy E. Headrick

Amy E. Headrick